



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2009 Biennium

Bill #	HB0675	Title:	Property surtax on certain residences for emergency services
Primary Sponsor:	Jacobson, Hal	Status:	As Introduced

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|---|---|--|
| <input type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input checked="" type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
Expenditures:				
General Fund	\$877,653	\$735,610	\$735,610	\$735,610
Revenue:				
General Fund	\$0	\$23,800,000	\$23,800,000	\$23,800,000
Net Impact-General Fund Balance	<u>(\$877,653)</u>	<u>\$23,064,390</u>	<u>\$23,064,390</u>	<u>\$23,064,390</u>

Description of Fiscal Impact:

This bill creates a property tax surtax of 20% for single-family residence owners that did not pay state income taxes in the prior year.

FISCAL ANALYSIS

Assumptions:

1. This bill provides that if the owner of a single-family residence has not paid Montana individual income taxes in the prior year, the taxpayer will pay a 20% surtax on the residential property for the current year. All proceeds from the surtax are deposited in the state general fund.
2. Specifically, the bill provides that the surtax applies if the owner of the property "has not paid income taxes under 15-30-103, MCA, in the prior year". For the purposes of this fiscal note, the property owner is subject to the 20% surtax even if the taxpayer filed an individual income tax return but had no positive tax liability for the tax year. All resident Montanans who own and pay residential property taxes, but who have no positive individual income tax liability would be subject to the surtax, regardless of whether an income tax return was filed.

3. Taxpayers who did not pay individual income taxes in the prior year because of age, infirmity, or misfortune are exempt from the 20% surtax.
4. This proposal applies to property tax years beginning after December 31, 2007. This is assumed to mean that property tax bills will be subject to the surtax in tax year 2008 if the taxpayer did not pay income taxes in tax year 2007. Tax bills for tax year 2008 are paid in November of 2008 and May of 2009, so the earliest that this proposal will impact general fund revenues is in FY 2009.
5. In tax year 2005 residential property taxes totaled \$478 million. Of this amount, approximately \$309 million was taken as an itemized deduction on individual income tax returns where some individual income tax was paid. An additional \$29 million was paid by elderly taxpayers who also filed for the elderly homeowner/renter credit. These property taxes would not be subject to the surtax, leaving a balance of \$140 million. Of this amount, surtaxes will not be payable for 1) taxpayers who are not residents of the state, but paid some state income tax on income attributable to Montana; 2) taxpayers who paid income taxes and own residential property but took the standard deduction, rather than itemizing deductions; and 3) taxpayers who own single-family residences but who rent those properties to other taxpayers. It is assumed that these three types of taxpayers account for an additional \$21 million in property taxes that would not be subject to the surtax. This leaves a balance of about \$119 million in property taxes associated with taxpayers who paid no individual income tax in the prior year.
6. Based on the above assumption, it is estimated that this bill will raise approximately \$23.8 million (\$119 million x 20% surtax) annually.
7. The Department estimates that additional administrative expenses due to this bill will total \$877,563 in FY 2008, \$754,000 in FY 2009, \$772,850 in FY 2010, and \$792,172 in FY 2011. This includes an addition of 18.0 FTE, one pay band 8 attorney and 17 pay band 2 property valuation specialists. The property valuation specialists would be primarily to provide for the cross-matching process between residential properties and individual income tax filing to ensure compliance with the program. There would also be costs associated with: 1) a taxpayer education program; 2) updating department computer systems to provide for tracking of properties that have or have not paid income tax and properties subject to the surtax; 3) upgrades to county computer systems to provide for the proper billing of property taxes including the surtax; 4) data entry; and 5) printing and mailing forms.

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
<u>Fiscal Impact:</u>				
FTE	18.00	18.00	18.00	18.00
<u>Expenditures:</u>				
Personal Services	\$543,292	\$556,874	\$570,796	\$585,066
Operating Expenses	\$227,361	\$197,126	\$202,054	\$207,105
Equipment	\$107,000	\$0	\$0	\$0
TOTAL Expenditures	\$877,653	\$754,000	\$772,850	\$792,172
<u>Funding of Expenditures:</u>				
General Fund (01)	\$877,653	\$754,000	\$772,850	\$792,172
TOTAL Funding of Exp.	\$877,653	\$754,000	\$772,850	\$792,172
<u>Revenues:</u>				
General Fund (01)	\$0	\$23,800,000	\$23,800,000	\$23,800,000
TOTAL Revenues	\$0	\$23,800,000	\$23,800,000	\$23,800,000
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	(\$877,653)	\$23,046,000	\$23,027,150	\$23,007,828

Technical Notes:

1. American Indians living on reservation fee lands pay property taxes, but may not be required to pay individual income taxes by state or federal law. This bill would add a 20% surtax to the property taxes of certain American Indians because they did not pay income taxes in the prior year, even though they may have had no legal obligation to pay income taxes. Language could be added to the bill providing that property taxpayers who for whatever reason are not subject by law to state individual income taxes would not be subject to the property tax surtax.
2. There are thousands of farmsteads organized as sole proprietorships, partnerships or other forms of pass-through entities that are subject to individual income taxes. Generally speaking, current accounting practices and rules result in many of these farms not paying individual income taxes. The property taxes on the residential portion of these farmsteads would be subject to the 20% property tax surtax in each year following a year in which the farm operation showed a net loss.
3. In order to provide for the effective administration of this proposal, particularly with respect to ensuring compliance with the specific provisions of this bill, the Department of Revenue must have the capability of cross-matching individual income tax returns with property tax records. Currently, no such ability exists. Given the current state of database development, there is no way of determining if a particular piece of residential property did or did not pay individual income taxes in the previous year. Enforcement of this proposal would be extremely difficult; particularly in the cases where the residential property is owned by a sole proprietorship or some form of pass-through entity for which the residential property taxes are taken as a business expense deduction, rather than reported as an itemized deduction on the individual taxpayer's return.
4. Individuals owning residential property, but with incomes below the filing thresholds for individual income tax purposes would be subject to the 20% surtax on their residential property each year.

5. The bill provides that taxpayers are exempt from the surtax because of “age, infirmity, or misfortune”, but does not define what these terms mean. Providing a more precise definition would greatly facilitate administration of the provisions of this bill.
6. The bill provides that the surtax applies to taxpayers who have not “paid income taxes under 15-30-103, MCA, in the prior year”. If a taxpayer files an income tax return for the prior year, and calculates his liability as zero, this may be construed to mean that the taxpayer has “paid income taxes under 15-30-103, MCA”. The intent should be clarified by specifying that the taxpayer is subject to the surtax if the taxpayer had no income tax liability in the prior year. Further, “paid income taxes in the prior year” is unclear. Tax liabilities for tax year 2007 are often not paid until tax year 2008 when the return is filed; when are the taxes “paid”? Also, a taxpayer could “pay” a nominal amount of tax, and then claim a refund in subsequent years to avoid the surtax. Tying the surtax to a determination of positive tax liability associated with a specific tax year would facilitate and clarify the intent of the bill.
7. In administering the provisions of this bill, it would be necessary to provide county treasurers with information indicating whether or not a particular piece of residential property had or had not paid individual income taxes. Under current statutes this information is confidential. The bill may have to amend 15-30-303, MCA, to allow this information to be divulged to county treasurers or others that may need the information in order to effectively administer the provisions of the bill.
8. The reference to (2)(a) in New Section (3)(b) should reference (3)(a) instead.

Sponsor's Initials

Date

Budget Director's Initials

Date